

THOMAS J. MILLER
ATTORNEY GENERAL

CONSUMER PROTECTION DIVISION



Address Reply To:
HOOVER BLDG, 1305 E. WALNUT
DES MOINES, IOWA 50319

TELEPHONE: 515-281-5926
TOLL FREE: 888-777-4590 (IN IOWA)
TELEFAX: 515-281-6771

Department of Justice

February 11, 2009

*[Sample of letter sent to "foreclosure consultant"
companies.]*

Dear Sir or Madam:

We are writing to inform you about a new Iowa law that may significantly impact your business operations. On April 25, 2008, House File 2653 was signed by Iowa Governor Chet Culver, with **an immediate effective date**. This letter is being sent to all companies we are aware of who are doing business in Iowa and who may fall within the provisions of House File 2653. By sending you this letter we are making no statement, positive or negative, about your company's conduct prior to the adoption of House File 2653, and we reserve the right to bring any investigation or legal action based on your past conduct. However, we want to put you on notice that House File 2653 makes it explicitly clear that certain practices you may have been or may be currently engaging in are illegal under Iowa law.

A copy of House File 2653 is enclosed. This letter only highlights some of the numerous provisions of House File 2653 and is not intended to be a comprehensive summary of the entire bill. You should obtain legal counsel of your choice to become fully aware of your responsibilities under Iowa law.

The first part of the law (Iowa Code § 714E.1 through § 714E.9) involves "foreclosure consultants," which based on publicly available information we believe would likely include your company. Foreclosure consultants are defined by Iowa Code § 714E.1(3). In short, this new law makes it illegal for a foreclosure consultant to take or ask for any money until it has completely finished doing everything it said it would do. Advanced payments are no longer allowed. The law requires that a foreclosure consultant contract must be in writing and must contain certain notices (§ 714E.2). It also gives consumers a three-day right of cancellation after entering into a foreclosure consultant contract (§ 714E.3).

We would like to direct your attention to Section 714E.4, which makes certain practices a violation of Iowa law. More specifically, it is now illegal under Iowa law to, among other things:

- "Claim, demand, charge, collect, or receive compensation until after the foreclosure consultant has fully performed each and every service the foreclosure consultant contracted to perform or represented the foreclosure consultant would perform." § 714E.4(1)
- "Induce or attempt to induce an owner to enter into a contract which does not comply in all respects with the requirements of this chapter."
§ 714E.4(7)
- "Claim, demand, charge, collect, or receive a fee, interest, or other compensation for promising to negotiate a mortgage loan or real estate contract modification, forbearance, repayment plan, or other loss mitigation for the consumer and failing to successfully negotiate such a modification, forbearance, repayment plan, or other loss mitigation."
§ 714E.4(8)
- "Prohibit the borrower from contacting any lender, servicer, government entity, attorney, counselor, individual, or company that may seek to help the consumer. Any such provision is void and unenforceable."
§ 714E.4(9)

In addition, the law declares that any waiver of the provisions of this chapter is void and unenforceable and makes any attempt to secure a waiver an independent violation of Iowa law (§ 714E.5).

Finally, a violation of House File 2653 is also a violation of the Iowa Consumer Fraud Act (Iowa Code § 714.16), and all remedies under the Consumer Fraud Act are available for a violation of House File 2653. In addition, the law provides a private right of action and remedies for violations, including actual damages, equitable relief, costs and attorneys fees, and in certain situations exemplary damages (§ 714E.6).

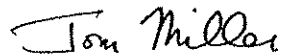
It is worth noting that the law also provides a criminal penalty by stating that, "A person who commits any violation described in section 714E.4 commits a serious misdemeanor." See § 714E.7.

You should further be aware that the second part of House File 2653 imposes numerous rules and requirements if you are involved in the actual purchase of a house from a homeowner whose mortgage is in foreclosure, forfeiture, or tax sale. See Iowa Code Section 714F.1 through Section 714F.9.

Page 3

Because this is now Iowa law, we expect full and complete compliance from all companies that qualify as foreclosure consultants and foreclosure purchasers. No grace period will be allowed. If we find that you are not in full compliance, the Iowa Attorney General's Office will vigorously pursue all available penalties and remedies for any violations. Should you have any questions, please contact Assistant Attorneys General Patrick Madigan or Jessica Whitney at (515) 281-5926.

Sincerely,

A handwritten signature in cursive script that reads "Tom Miller".

Thomas J. Miller
Iowa Attorney General

Enclosure

CERTIFIED MAIL